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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

CLERK
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WESTERN DISTRICT OF MICH

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IN RE: Plan for Appointment of Attorneys
in *Pro Bono* Civil Cases

ADMINISTRATIVE ORDER
No. 03-003

WHEREAS, the Judges of this Court have decided to adopt a plan establishing uniform criteria and procedures for the appointment of counsel to represent indigent parties in certain civil cases; and

WHEREAS, the Court has determined that the establishment of a fund to defray reasonable costs incurred by *pro bono* counsel will facilitate competent representation and advance the interests of justice;

WHEREAS, the organized bar in this District, including the Federal Bar Association, Western Michigan Chapter, the Grand Rapids Bar Association, and other local bar associations, has volunteered to assist the Court in implementing the appointment plan and administering the fund;

NOW, THEREFORE, IT IS ORDERED AS FOLLOWS:

1. The United District Court for the Western District of Michigan, with the assistance of cooperating bar associations, shall commence, beginning January 1, 2003, a *Pro Bono* Plan for the appointment of attorneys in civil cases. This will be accomplished by screening requests for court appointed attorneys in *pro se* cases, appointing attorneys where appropriate, recruiting attorneys to handle such cases, training the attorneys, and establishing a cost reimbursement fund to help pay for a portion of the actual costs and expenses.

2. The cost reimbursement fund will be supported by contributions from the Court, bar associations, members of the bar of this Court, and by contributions from other sources. The Grand Rapids Bar Association will maintain the cost reimbursement fund and provide an annual accounting to the Federal Bar Association, Western Michigan Chapter, the Court, and, upon request, to any member of the bar of this Court. Reimbursements for costs and expenses will be approved by a committee composed of a magistrate judge of this Court and two designated members of the Federal Bar Association, Western Michigan Chapter. Absent unusual circumstances, reimbursement of costs and expenses in any given case shall not exceed Five Thousand Dollars (\$5,000.00).

3. The *Pro Bono* Plan shall have the full cooperation and assistance of all the judges, magistrate judges, clerks, and staff of this Court. The Federal Bar Association, Western Michigan Chapter, is encouraged to enlist the support of other local bar associations.

4. The *Pro Bono* Plan shall be run in accordance with the guidelines attached to this Order, which the Court may amend from time to time by future administrative order.

Nothing in this Order, the Guidelines, or the *Pro Bono* Plan shall be deemed to grant any right to any litigant or attorney.

For the Court:

Date: January 14, 2003



ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE

**PRO BONO PLAN OF THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF MICHIGAN IN COOPERATION WITH THE
WESTERN MICHIGAN CHAPTER OF THE FEDERAL BAR ASSOCIATION**

GUIDELINES

1. Exclusive method of appointment: Appointment of counsel in *pro se* civil actions filed in the United States District court for the Western District of Michigan shall be accomplished pursuant to these guidelines.
2. Selection of Cases: The *Pro Bono* Plan has been established to attempt to secure *pro bono* representation for litigants meeting the following criteria:
 - a. The litigant must be a party, *in propria persona*, in a civil action filed in the United States District Court for the Western District of Michigan. Civil action includes general civil and prisoner civil rights proceedings.
 - b. The litigant must have been granted leave to proceed *in forma pauperis*.
 - c. In deciding whether to appoint counsel, the Court is to consider the viability of the litigant's position. Before counsel is appointed, a district judge or magistrate judge of this Court must determine that the best interests of justice would be served by the appointment of counsel.
3. Referral of cases to the *Pro Bono* Plan: When a district judge or magistrate judge has determined that appointment of an attorney pursuant to this program is warranted, the matter will be referred to Magistrate Judge Timothy P. Greeley pursuant to an administrative order (form order attached). Magistrate Judge Greeley shall contact the Grand Rapids Bar Association in an attempt to appoint an attorney suitable for the case. Every effort will be made to appoint an attorney who is located in the area where the case is to be tried.
 - a. Once the Grand Rapids Bar Association has identified an attorney to take the appointment, an order will be issued by Magistrate Judge Timothy P. Greeley appointing the attorney in that case (form order attached).
 - b. Counsel shall have access to the court file and, at counsel's request, shall be provided with reasonable copies at no cost. Upon entry of the order appointing the attorney, the attorney shall communicate promptly with the party and shall file an appearance of counsel of record. The appointed attorney may withdraw from the case only by leave of court.

4. Stay of proceedings until four weeks after appointment of counsel: At the time a litigant is referred to the program, the Court will stay all proceedings in the action for a period of four (4) weeks from the date a panel attorney is appointed by the Court to represent the litigant. The purpose of this stay is to permit the panel attorney sufficient time to meet and interview the client, review the case file, and conduct preliminary investigation and legal research.
5. Status conference at the expiration of stay: Shortly before the expiration of the stay of proceedings in a referred case, the Court shall conduct a status conference with all parties represented. One purpose of the status conference shall be to consider whether expedited discovery and/or proceedings are appropriate to facilitate efficient resolution of the case.
6. Advisory attorneys: Any panel attorney who wishes to consult with an attorney more experienced in the type of litigation of the case referred through this program may be assigned an “advisory attorney” from among a panel who are experienced in the substantive area and who have litigated in federal court. The identity of the advisory attorney shall not be revealed to the client, nor will the advisory attorney have direct contact with, duty to, or an attorney-client relationship with the client, absent written consent of the advisory attorney.
7. Cost reimbursement: Appropriate costs may be reimbursed from a fund administered by the Grand Rapids Bar Association with the approval of a committee made up of two designated members of the Federal Bar Association, Western Michigan Chapter, and Magistrate Judge Timothy P. Greeley, pursuant to the following conditions:
 - a. The committee shall be known as the Cost Reimbursement Fund Committee. The Committee shall, in its sole discretion, determine whether costs and expenses claimed are reasonable and necessary, and may authorize reimbursement of costs and expenses, or a portion thereof. No more than Five Thousand Dollars (\$5,000.00) will be available for reimbursement from the fund in any one case, absent the unanimous approval from the committee for good cause shown. The Committee shall not approve reimbursement for any amount not presently available in the fund.
 - b. Reimbursable costs may include, but shall not be limited to, amounts reasonably and necessarily spent on:
 - i. depositions
 - ii. copying
 - iii. service of process and delivery service
 - iv. expert consultant and witness fees, if any
 - v. long distance telephone calls
 - vi. reasonable investigation expenses
 - vii. mileage
 - viii. filing fees.

- c. Nothing shall prevent the party from seeking an award of fees, expenses and costs as provided by law. If costs and/or expenses are reimbursed by court order, or by a settlement agreement, the party will be required to reimburse costs and expenses paid from the cost reimbursement fund. Priority will be given to reimbursing costs and expenses paid from the cost reimbursement fund.
 - d. The panel attorney is encouraged to seek prior approval from the Cost Reimbursement Fund Committee for costs and expenses. In addition, the party may seek payment in advance for costs upon approval from the Cost Reimbursement Fund Committee.
8. Training: The Federal Bar Association, Western Michigan Chapter, may conduct periodic training for members of the *pro bono* panel.
 9. Magistrate Judge Timothy P. Greeley shall be responsible for providing to the Federal Bar Association, Western Michigan Chapter, and the judges of the United States District Court for the Western District of Michigan quarterly reports indicating the number of attorneys appointed pursuant to the plan, the types of cases being referred, the judges who have utilized the plan, and the costs and expenses which have been reimbursed.
 10. Attorney's Fees: Counsel may be compensated with an award of attorney's fees as allowed by law. Any proposed judgment or settlement agreement is to be approved by the Court and shall provide that first priority shall be given to reimbursement of the cost reimbursement fund. Any award of attorney's fees pursuant to judgment or settlement must be approved by the Court. The Court may provide that a portion of the attorney's fees awarded shall be contributed to the cost reimbursement fund.
 11. Nothing in these guidelines shall be deemed to create any rights on behalf of any litigant to legal representation, or any rights on behalf of any litigant or attorney to reimbursement for costs, fees or expenses connected with the litigation.